

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DANIEL L. HALL, SR.,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:14-CV-136
(GROH)**

**CO. JUSTIN JAMES, Correctional Officer;
BRANDY MILLER, Associate Warden Programs;
KAREN PSZCZOLKOWSKI, Warden, Northern
Correctional Facility; DALE GRIFFITH, Unit Manager;
NORTHERN CORRECTIONAL FACILITY;
JIM RUBENSTEIN, DOC Commissioner,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court for consideration of a Report and Recommendation (“R&R”) issued by United States Magistrate Judge Michael J. Aloï. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Aloï for submission of a proposed R&R. On June 21, 2016, Magistrate Judge Aloï issued his R&R, which recommends that this Court grant the Defendants’ motion to dismiss and dismiss the Plaintiff’s 42 U.S.C. § 1983 complaint with prejudice for failure to state a claim upon which relief can be granted.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections are made.

Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file objections in a timely manner constitutes a waiver of *de novo* review and a plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1)(C); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

In this case, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to Magistrate Judge Aloï's R&R were due within fourteen days after being served with a copy of the R&R. The R&R in this case was received on June 24, 2016.¹ To date, neither party has filed objections. Accordingly, this Court will review the R&R for clear error.

In his complaint, the Plaintiff asserts civil rights claims against Associate Warden Brandy Miller, Warden Karen Pszczolkowski, Unit Manager Dale Griffith, the Northern Correctional Facility, Commissioner Jim Rubenstein and Correctional Officer Justin James. Upon review, the Court agrees with the magistrate judge's recommendation that the Plaintiff's claims are either improper or deficient as against each defendant. Accordingly, the Court finds that Magistrate Judge Aloï's Report and Recommendation [ECF No. 36] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. The Court **ORDERS** that the Defendants' Motion to Dismiss [ECF No. 20] is **GRANTED** and the Plaintiff's 42 U.S.C. § 1983 complaint [ECF No. 1] is **DENIED** and **DISMISSED WITH PREJUDICE**.

The Court **ORDERS** this case **STRICKEN** from its active docket.

¹ The Plaintiff's location of incarceration is designated on the Court's docket as Huttonsville Correctional Center. However, an inmate search conducted on June 20, 2016, via the West Virginia Division of Corrections' website indicated that the Plaintiff was incarcerated at Mount Olive Correctional Complex. Accordingly, the Clerk mailed a copy of the R&R to both institutions. Service was accepted at Mount Olive Correctional Complex on June 24, 2016, and at Huttonsville Correctional Center on June 27, 2016. Another inmate search was conducted on August 30, 2016, confirming that the Plaintiff is currently incarcerated at Mount Olive Correctional Complex.

The Clerk is **DIRECTED** to enter a separate judgment order in favor of the Respondent.

The Clerk is further **DIRECTED** to transmit copies of this Order to all counsel of record and to mail a copy to the *pro se* Plaintiff by certified mail, return receipt requested.

DATED: August 30, 2016



GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE